

operations where the volume of all reasonably available spoil is demonstrated in writing to the regulatory authority to be insufficient to completely backfill the reaffected or enlarged highwall. The highwall shall be eliminated to the maximum extent technically practical in accordance with the following criteria:

(1) All spoil generated by the remining operation and any other reasonably available spoil shall be used to backfill the area. Reasonably available spoil in the immediate vicinity of the remining operation shall be included within the permit area.

(2) The backfill shall be graded to a slope which is compatible with the approved postmining land use and which provides adequate drainage and long-term stability.

(3) Any highwall remnant shall be stable and not pose a hazard to the public health and safety or to the environment. The operator shall demonstrate, to the satisfaction of the regulatory authority, that the highwall remnant is stable.

(4) Spoil placed on the outslope during previous mining operations shall not be disturbed if such disturbances will cause instability of the remaining spoil or otherwise increase the hazard to the public health and safety or to the environment.

[48 FR 41735, Sept. 16, 1983, as amended at 51 FR 41737, Nov. 18, 1986]

#### **§ 817.107 Backfilling and grading: Steep slopes.**

(a) Underground mining activities on steep slopes shall be conducted so as to meet the requirements of §§ 817.102–817.106 and the requirements of this section.

(b) The following materials shall not be placed on the downslope:

- (1) Spoil.
- (2) Waste materials of any type.
- (3) Debris, including that from clearing and grubbing.
- (4) Abandoned or disabled equipment.
- (c) Land above the highwall shall not be disturbed unless the regulatory authority finds that this disturbance will facilitate compliance with the environmental protection standards of this subchapter and the disturbance is lim-

ited to that necessary to facilitate compliance.

(d) Woody materials shall not be buried in the backfilled area unless the regulatory authority determines that the proposed method for placing woody material within the backfill will not deteriorate the stable condition of the backfilled area.

[48 FR 23370, May 24, 1983, as amended at 48 FR 41735, Sept. 16, 1983]

#### **§ 817.111 Revegetation: General requirements.**

(a) The permittee shall establish on regraded areas and on all other disturbed areas except water areas and surface areas of roads that are approved as part of the postmining land use, as vegetative cover that is in accordance with the approved permit and reclamation plan and that is—

- (1) Diverse, effective, and permanent;
- (2) Comprised of species native to the area, or of introduced species where desirable and necessary to achieve the approved postmining land use and approved by the regulatory authority;
- (3) At least equal in extent of cover to the natural vegetation of the area; and
- (4) Capable of stabilizing the soil surface from erosion.

(b) The reestablished plant species shall—

- (1) Be compatible with the approved postmining land use;
- (2) Have the same seasonal characteristics of growth as the original vegetation;
- (3) Be capable of self-regeneration and plant succession;
- (4) Be compatible with the plant and animal species of the area; and
- (5) Meet the requirements of applicable State and Federal seed, poisonous and noxious plant, and introduced species laws or regulations.

(c) The regulatory authority may grant exception to the requirements of paragraphs (b) (2) and (3) of this section when the species are necessary to achieve a quick-growing, temporary, stabilizing cover, and measures to establish permanent vegetation are included in the approved permit and reclamation plan.

(d) When the regulatory authority approves a cropland postmining land